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NUTRAMAX LABORATORIES, INC. and
9 NUTRAMAX LABORATORIES CONSUMER CARE, INC.

10 **UNITED STATES DISTRICT COURT**
11 **CENTRAL DISTRICT OF CALIFORNIA**
SOUTHERN DIVISION

12 NUTRAMAX LABORATORIES,
INC. and
13 NUTRAMAX LABORATORIES
CONSUMER CARE, INC.,
14 Plaintiffs,

15 v.

16 BODY WISE INTERNATIONAL,
INC.,
17 Defendant.

Case No. 8:18-cv-02076

**DECLARATION OF JOHN W.
COX IN SUPPORT OF MOTION
FOR DEFAULT JUDGMENT
AGAINST DEFENDANT BODY
WISE INTERNATIONAL, INC.**

Concurrently filed with:

1. Notice of Motion and Motion for Default Judgment;
2. Memorandum of Points and Authorities;
3. Declaration of Grace A. Cornblatt;
4. Proposed Order

Judge: Hon. David O. Carter
Motion Date: March 4, 2019

1 I, JOHN W. COX, state as follows:

2 1. I am an attorney with the law firm of Womble Bond Dickinson
3 (US) LLP, counsel of record for Plaintiffs in this action, admitted to this Court
4 *pro hac vice* in this matter, and have personal knowledge of the facts set forth
5 herein.

6 2. I submit this declaration in support of Plaintiffs Nutramax
7 Laboratories and Nutramax Laboratories Consumer Care, Inc.'s (collectively,
8 "Nutramax" or "Plaintiffs") Motion for Default Judgment Against Defendant
9 Body Wise International, Inc. ("Defendant").

10 3. Attached hereto as Exhibit 1 is a true and correct copy of an
11 excerpt from Dorland's Medical Dictionary for Health Consumers or Dorland's
12 Illustrated Medical Dictionary 32nd Ed., including page 794.

13 4. Attached hereto as Exhibit 2 is a true and correct copy of the May
14 16, 2013, Declaration of Carmelita Frondoza, submitted during the prosecution
15 of U.S. Patent No. 8,753,697 (D.I. 1-3).

16 5. Attached hereto as Exhibit 3 is a true and correct copy of email
17 correspondence dated November 30, 2018 between M. Pajor and J. Cox.

18 6. Attached hereto as Exhibit 4 is a true and correct copy of email
19 correspondence dated December 7, 2018 between from M. Pajor to J. Cox.
20
21
22

1 7. Attached hereto as Exhibit 5 is a true and correct copy of email
2 correspondence dated December 12, 2018 between M. Pajor and J. Cox.

3 8. Attached hereto as Exhibit 6 is a true and correct copy of email
4 correspondence dated December 13, 2018 from J. Cox to M. Pajor.

5 9. Attached hereto as Exhibit 7 is a true and correct copy of email
6 correspondence dated December 20, 2018 from J. Cox to M. Pajor, which
7 includes email correspondence dated December 18, 2018 from J. Cox to M.
8 Pajor and email correspondence dated December 17, 2018 from M. Pajor to J.
9 Cox.

10 10. Attached hereto as Exhibit 8 is a true and correct copy of email
11 correspondence dated January 3, 2019 from J. Cox to M. Pajor, which includes
12 email correspondence dated December 31, 2018 from J. Giardina to M. Pajor.

13 11. The last communication received by me from M. Pajor is the email
14 correspondence dated December 17, 2018 despite the additional correspondence
15 sent to M. Pajor indicated herein.

16 12. Attached hereto as Exhibit 9 is a true and correct redacted copy of
17 Womble Bond Dickinson's bills to Nutramax for the month of December, 2018.

18 13. Attached hereto as Exhibit 10 is a true and correct redacted copy of
19 Womble Bond Dickinson's bills to Nutramax for the period from January 1,
20 2019, through and including January 25, 2019.

EXHIBIT 1

DORLAND'S ILLUSTRATED MEDICAL DICTIONARY

32nd
EDITION

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DORLAND'S ILLUSTRATED MEDICAL DICTIONARY
32nd edition

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Gly-coph-a-gus (gli'kof'-ə-gəs) *Glycophagus*.

gly-co-phil-ia (gli'ko-fil'-e-ə) [*glyco-* + *-philia*] a condition in which a very small amount of glucose produces hyperglycemia.

gly-co-phor-in (gli'ko-for'in) any of a group of transmembrane glycoproteins of erythrocytes, attaching to oligosaccharides at the outer cell membrane surface and to contractile proteins (spectrin and actin) at the cytoplasmic surface; some carry blood group antigens. Defects of glycophorin C lead to in elliptocytosis, spherocytosis, and pyropoikilocytosis.

gly-co-poly-uria (gli'ko-pol'e-u're-ə) [*glyco-* + *poly-* + *-uria*] polyuria due to glycosuria.

gly-co-pri-val (gli'ko-pri'vəl) glucopenic.

gly-co-pro-tein (gli'ko-pro'tēn) a conjugated protein containing one or more covalently linked carbohydrate residues. While technically describing conjugates in which the carbohydrate is less than 4 per cent by weight, the term is often used generically to include the mucoproteins (q.v.) and proteoglycans (q.v.).

g. IIb/IIIa a transmembrane protein of platelets; it is an integrin that binds fibrinogen, von Willebrand factor, and other adhesive ligands and plays a role in platelet aggregation and thrombus formation.

α1-acid g. an acute phase protein found in blood plasma, an indicator of tissue necrosis and inflammation. Called also orosomucoid.

glycine-rich β g. (GBG) former name for *factor B*.

human cartilage g.-39 a 42-kilodalton glycoprotein produced by chondrocytes, synovial cells, macrophages, and neutrophils, thought to play a role in tissue remodeling; serum levels are increased in rheumatoid arthritis and certain inflammatory conditions.

g. Mac-1 a β_2 integrin (CD11b/CD18) expressed on monocytes, macrophages, neutrophils, and NK cells that mediates leukocyte adhesion and serves as a receptor for inactivated complement fragment C3b (iC3b) and for some carbohydrates of certain bacteria and yeasts; it also plays a role in antibody-dependent cellular cytotoxicity. It comprises an α and a β chain; the latter is common also to CR4. Called also *Mac-1* and *complement receptor 3* (CR3).

P-g. (Pgp) a 170-kilodalton cell-surface protein occurring normally in the colon, small intestine, adrenal glands, kidney, and liver, and also expressed by tumor cells. It is a modulator of multidrug resistance, mediating the transport of antineoplastic agents out of tumor cells.

g. p150,95 complement receptor CR4; see under *complement receptor*, at *receptor*.

variable surface g. (VSG) any of an array of glycoproteins that forms the antigenic protein coating of *Trypanosoma brucei*. The organisms contain numerous genes encoding hundreds of such glycoproteins and, by expressing individual ones successively, evade the immune system of the host.

gly-co-pro-tein 4-β-ga-lac-to-syl-trans-fer-ase (gli'ko-pro'tēn gō-lak'to-sal-trans'fər-ās) an enzyme of the transferase class that catalyzes the attachment of galactose moieties derived from UDP-galactose to N-acetylglucosamine residues of glycoproteins. The enzyme is present in many tissues; in secreting mammary gland cells it complexes with α -lactalbumin to form lactose synthase. In EC nomenclature, called β -N-acetylglucosaminyl-glycopeptide β -1,4-galactosyltransferase.

gly-co-pty-al-ism (gli'ko-ti'əl-iz-əm) [*glyco-* + *ptyal-* + *-ism*] glycosialia.

gly-co-pyr-ro-late (gli'ko-pir'o-lāt) [USP] a synthetic quaternary anticholinergic used as an antispasmodic to help treat peptic ulcer and other gastrointestinal disorders, a preanesthetic antispasmodic to decrease salivation and respiratory secretions, and an antiarrhythmic to counteract vagal inhibitory reflexes during induction of anesthesia and surgery; administered orally, intramuscularly, or intravenously. Called also *glycopyrronium bromide*.

gly-co-pyr-ro-ni-um bro-mide (gli'ko-pir-o'ne-əm) INN for *glycopyrrolate*.

gly-cor-rha-chia (gli'ko-ra'ke-ə) [*glyco-* + *rhachi-* + *-ia*] presence of glucose in the cerebrospinal fluid.

gly-cor-rhea (gli'ko-re'ə) [*glyco-* + *-rrhea*] a sugary discharge, as with glycosuria.

gly-co-sam-lne (gli-kō'sā-mēn) an amino sugar, usually glucosamine.

gly-cos-ami-no-gly-can (gli'kōs-ə-me'no-gli'kan) any of several high-molecular-weight linear heteropolysaccharides having disaccharide repeating units containing an N-acetylhexosamine and a hexose or hexuronic acid; either or both residues may be sulfated. This class of compounds includes the chondroitin sulfates, dermatan sulfates, heparan sulfate and heparin, keratan sulfates, and hyaluron. All except heparin occur in proteoglycans. One or more glycosaminoglycans are accumulated abnormally in the various mucopolysaccharidoses. Abbreviated GAG. Formerly called *mucopolysaccharide*.

gly-co-se-cre-to-ry (gli'ko-se-kre'to-re) causing or concerned in the deposition of glycogen.

gly-co-se-mia (gli'ko-se'me-ə) glycemia.

gly-co-si-a-lia (gli'ko-si-a'le-ə) [*glyco-* + *sial-* + *-ia*] presence of glucose in the saliva.

gly-co-si-a-lor-rhea (gli'ko-si'ə-lo-re'ə) [*glyco-* + *sialo-* + *-rrhea*] excessive flow of saliva containing glucose.

gly-co-si-dase (gli-kō'si-dās) glycosylase; sometimes restricted to those catalyzing the hydrolytic cleavage of O-, or S-linked glycosyl compounds specifically [EC 3.2.1].

β-g. 1. a glycosidase specifically cleaving β -linked sugar residues from glycosides. 2. see under *complex*.

gly-co-side (gli'ko-sīd) any compound that contains a carbohydrate molecule (sugar), particularly any such natural product in plants, convertible, by hydrolytic cleavage, into sugar and a nonsugar component (aglycon), and named specifically for the sugar contained, as glucoside (glucose), pentoside (pentose), fructoside (fructose), etc.

cardiac g. any of a group of glycosides characterized by an aglycone consisting of a steroid nucleus with an α , β -unsaturated lactone ring attached at the C-17 position, occurring in certain plants (e.g., *Digitalis*, *Strophanthus*, *Urginea*). Cardiac glycosides increase the force of contraction of cardiac muscle and some are used as cardiotonics and antiarrhythmics.

digitalis g. any of a number of cardiotonic and antiarrhythmic glycosides derived from *Digitalis purpurea* and *D. lanata*, consisting of a steroid nucleus with an α , β -unsaturated lactone ring attached at the C-17 position and a digitoxose moiety attached at C-3. The term is often used to denote any drug chemically and pharmacologically related to these glycosides, although not all are derived from *Digitalis* (e.g., ouabain); in this case it is equivalent to *cardiac g.*

gly-co-some (gli'ko-sōm) a microbody (q.v.) containing glycolytic enzymes, occurring in protozoa of the order Kinetoplastida.

gly-co-sphingo-lip-id (gli'ko-sfing'o-lip'id) any sphingolipid in which the head group is a mono- or oligosaccharide unit; included are the cerebrosides, sulfatides, and gangliosides. See also *glycolipid*.

gly-co-sphing-o-lip-i-do-sis (gli'ko-sfing'o-lip'i-do'sis) [*glyco-* + *sphingolipid* + *-osis*] Fabry disease.

gly-co-static (gli'ko-stat'ik) [*glyco-* + *static*] tending to maintain a constant sugar level.

gly-cos-uria (gli'ko-su're-ə) [*glycose*, older variant of *glucose* + *-uria*] the presence of glucose in the urine, especially excretion of an abnormally large amount in the urine, such as more than 1 g in 24 hours. Called also *diabetes* and *glucosuria*.

alimentary g. digestive g.

benign g. renal g.

digestive g. normal glycosuria following the ingestion of sugar; called also *alimentary g.*

emotional g. glycosuria induced by violent emotion.

epinephrine g. glycosuria following the injection of epinephrine.

hyperglycemic g. glycosuria associated with hyperglycemia.

magnesium g. glycosuria due to high concentration of magnesium in the blood.

nondiabetic g., nonhyperglycemic g., normoglycemic g., orthoglycemic g. renal g.

pathologic g. appearance of large amounts of sugar in the urine for a considerable period of time.

phlorhizin g. glycosuria following the experimental administration of phlorhizin.

renal g. glycosuria occurring when there is only the normal amount of sugar in the blood, due to inability of the renal tubules to reabsorb glucose completely. Called also *nondiabetic* or *normoglycemic g.* and *renal diabetes*.

toxic g. glycosuria produced by poisons.

gly-co-syl (gli'ko-sil') the radical formed from a saccharide by removal of the anomeric hydroxyl group.

gly-co-syl-ase (gli-kō'sal-ās) [EC 3.2] any of a large subclass of enzymes of the hydrolase class that catalyze the hydrolytic cleavage of O-, N-, or S-linked glycosyl compounds; most are of broad specificity.

gly-co-syl-at-ed (gli-kō'sal-āt'əd) having formed a linkage with a glycosyl group.

gly-co-syl-a-tion (gli-kō'sal-lā'shən) the formation of linkages with glycosyl groups.

N-linked g. the addition of an N-linked oligosaccharide to a protein, a cotranslational process occurring in the endoplasmic reticulum; the oligosaccharide is added as a preformed precursor that is modified by later processing.

nonenzymatic g. glycation.

O-linked g. the addition of an O-linked oligosaccharide to a protein, a process that occurs in the Golgi complex; the oligosaccharide is synthesized by sequential addition of individual sugars.

EXHIBIT 2

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of:	Confirmation No.: 2427
Todd R. HENDERSON et al.	Group Art Unit: 1627
Application No.: 12/566,449	Examiner: WANG, Shengjun
Filed: September 24, 2009	Attorney Docket No.: 031026-00161

For: USE OF ANABOLIC AGENTS, ANTI-CATABOLIC AGENTS, ANTIOXIDANT AGENTS AND ANALGESICS FOR PROTECTION, TREATMENT AND REPAIR OF CONNECTIVE TISSUES IN HUMANS AND ANIMALS

DECLARATION OF CARMELITA G. FRONDOZA, Ph. D.

Carmelita G. Frondoza, Ph.D., under penalty of perjury, states as follows:

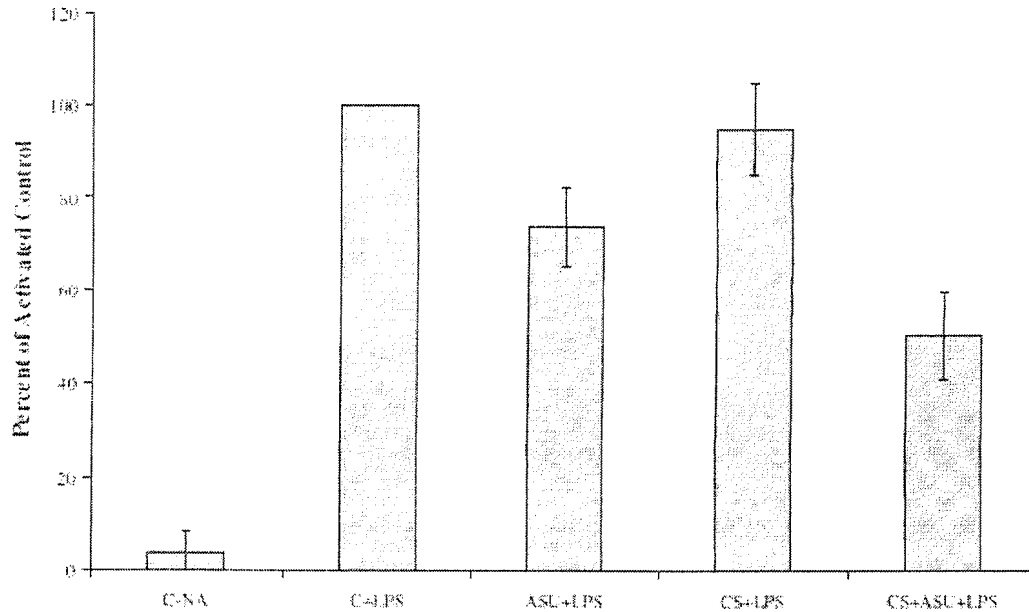
1. I am a former Senior Director of Research and Development at Nutramax Laboratories, Inc. ("Nutramax"), the assignee of the above-identified patent application.
2. This Declaration presents data from a study that I conducted to determine the effect of the combination of avocado/soybean unsaponifiables (ASU) and chondroitin sulfate (a glycosaminoglycan) on inflammatory markers associated with the joints. The study shows that the combination of ASU and chondroitin sulfate has a statistically significant, synergistic effect on inflammatory markers, which is greater than the additive effect of ASU and chondroitin sulfate. In particular, the study shows that the combination has a statistically significant, synergistic effect on the production of prostaglandin E2 (PGE₂) on mouse macrophage-monocyte cells.
3. Joint health is dependent on several tissues, including cartilage, synovial tissues, and subchondral bone, as well as the associated ligaments and tendons. The integrity of these tissues determines the overall health of the joint. Cartilage cells (chondrocytes), synovial tissue cells (macrophage-like cells and fibroblast-like cells), and subchondral bone (osteocytes and osteoblasts), as well as cells in the ligaments and tendons, produce pro-inflammatory mediators which can cause pain and

destruction of the cartilage. Certain disorders, such as osteoarthritis, are associated with overproduction of pro-inflammatory mediators. Examples of pro-inflammatory mediators associated with osteoarthritis include prostaglandin E₂ (PGE₂), tumor necrosis factor- α (TNF- α), and interleukin-1 β (IL-1 β). Excessive and prolonged production of these mediators is thought to cause a disturbance in the normal balance between degradation and normal turnover of articular cartilage. Therefore, a reduction in the amount of inflammatory mediators, such as PGE₂, is a favorable effect. To identify agents which inhibit and reduce the production of these mediators, cell-based screening assays are extremely helpful. In the study I conducted, I used a cell-based, RAW mouse macrophage/monocyte cell model to evaluate the effect of the combination of ASU and chondroitin sulfate on the production of PGE₂.

4. My study shows the effect of ASU and chondroitin sulfate on PGE₂ production in mouse RAW monocyte/macrophage cells (ATCC, USA). Mouse RAW monocyte/macrophage cells were propagated in Dulbecco's Modified Eagle Medium Nutrient Mix F-12 (D-MEM/F-12, Invitrogen, USA) supplemented with 10% v/v fetal bovine serum (FBS, Invitrogen), 50 μ g/ml ascorbic acid (Sigma-Aldrich, USA), and 50 μ g/ml gentamycin (Invitrogen). The cells were counted and assessed for viability using a hemacytometer and the Trypan blue excursion method (Sigma-Aldrich). These cells were seeded at a density of 5×10^5 cells/well in six-well plates (Costar®, USA), and they were incubated at 37°C for 24 hours, 5% CO₂. The cells were incubated with one of the following: (1) control media alone, (2) ASU (8.3 μ g/mL), (3) chondroitin sulfate (20 μ g/mL), or (4) the combination of ASU (8.3 μ g/mL) and chondroitin sulfate (20 μ g/mL). Following this pre-treatment, the cells were activated with a cytokine, lipopolysaccharide (LPS, 20 ng/mL) or the combination of cytokines interleukin-1 β (IL-1 β) and tumor necrosis factor- α (TNF- α) for 24 hours.

5. The study showed that the combination of ASU and chondroitin sulfate demonstrated a statistically significant reduction in PGE₂ production, compared to either ASU alone or chondroitin sulfate alone. The mouse cells cultured for 24 hours with control media alone produced low levels of PGE₂ concentrations. Activation with LPS significantly increased PGE₂ production approximately ten-fold ($p < 0.001$). ASU alone

suppressed PGE₂ production by approximately 30% ($p < 0.05$), while chondroitin sulfate alone marginally inhibited PGE₂ production. The combination of ASU and chondroitin sulfate resulted in a 50% reduction in PGE₂ production, which is significantly lower than ASU or chondroitin sulfate alone ($p < 0.05$). This is depicted in the figure below:



Effect of ASU and chondroitin sulfate (CS) on PGE₂ production by RAW monocyte/macrophage-like cells was analyzed using ELISA. Cells were incubated with media alone, ASU, CSU, or the ASU and CS combination for 24 hours then activated with LPS for an additional 24 hours. PGE₂ production is shown as the mean \pm 1 SD of five representative runs.

6. This study shows that the combination of ASU and chondroitin sulfate has a statistically significant synergistic effect on the reduction in PGE₂ production, compared to either ASU alone or chondroitin sulfate alone. A statistically significant reduction indicates a synergistic (and not merely additive) effect in decreasing PGE₂ production. A decrease in PGE₂ production is considered to be a beneficial property, as PGE₂ is associated with inflammation, and therefore a decrease in production of PGE₂ production is a desired property.

I state that all statements made in this declaration of my own knowledge are true, and that all statements made in this declaration on information and belief are believed to be true.

Date: 5 / 16 / 13

Carmelita G. Frondoza

Carmelita G. Frondoza, Ph. D.

EXHIBIT 3

Giardina, Julie

From: Marty Pajor <MPajor@LiamVentures.com>
Sent: Friday, November 30, 2018 10:46 AM
To: Cox, John
Subject: Re: Nutramax - Body Wise -- matter

EXTERNAL EMAIL: Open Attachments and Links With Caution.

I will work on supplying the information requested in your letter.
It was nice talking with you this morning.

From: Cox, John <John.Cox@wbd-us.com>
Sent: Friday, November 30, 2018 9:36 AM
To: Marty Pajor
Subject: Nutramax - Body Wise -- matter

Hello Marty,

Thanks for connecting this morning. As discussed, you can find reach me at the contact information below. We look forward to hearing from you next week so we can discuss a path forward.

Best regards,

John

John W. Cox, Ph.D.
Partner
Womble Bond Dickinson (US) LLP

d: 404-888-7432
m: 404-680-4949
e: John.Cox@wbd-us.com

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EXHIBIT 4

Giardina, Julie

From: Cox, John
Sent: Friday, December 07, 2018 3:28 PM
To: 'Marty Pajor'
Subject: RE:

Hello Marty,

Thanks for your email – please call me John.

I will relay the details to Nutramax to see about reaching a resolution; I expect to get back to you by mid-week next week. In the interim, I would like to clarify a few points:

(i) Your email notes that Body Wise began selling Joint Complete on Amazon on June 28, 2018, with gross sales of \$556 through Amazon, and with approximately \$100,000 in gross sales in the past year “[t]hrough channels other than Amazon.” (A) On what date did Body Wise begin selling Joint Complete in (i) the US and (ii) Canada? (B) What gross sales has Body Wise had of Joint Complete since it began selling the product?

(ii) Your email also notes that “Body Wise is willing to stop selling Joint Complete on Amazon in exchange for a release of all claims and a dismissal of the lawsuit.” As an initial matter, Nutramax will need confirmation that Body Wise has stopped selling Body Wise through all channels, not just Amazon, before it can consider dismissal of the lawsuit. Upon that confirmation, Nutramax will offer terms of settlement that will include dismissal of the suit, which we agree would be beneficial to both parties.

(iii) During our call, I indicated that we are amenable to extending the deadline for Body Wise to answer the Complaint, but did not offer a specific extension or conditions. That said, I can agree to extend the deadline for Body Wise to answer the Complaint by 21 days. Should the parties agree that further extensions are warranted, we can submit those extensions to the Court at the appropriate time. Therefore, we propose that we prepare for submission a 21-day extension and provide it to you for consideration next week. If you prefer otherwise, please let me know.

Further to the above and our discussion last week, we remain interested in resolving this matter amicably and as soon as reasonably feasible.

Best regards,

John

John W. Cox, Ph.D.

Partner
Womble Bond Dickinson (US) LLP

d: 404-888-7432
m: 404-680-4949
e: John.Cox@wbd-us.com

Atlantic Station
271 17th Street, NW
Suite 2400
Atlanta, GA 30363-1017



womblebond Dickinson.com



From: Marty Pajor [mailto:MPajor@LiamVentures.com]
Sent: Friday, December 07, 2018 12:08 PM
To: Cox, John
Subject:

Dear Mr. Cox:

Per our conversation on Thursday November 29, I informed you that Body Wise did not receive any correspondence regarding the Nutramax claim until Tuesday November 27, when I received a copy of the lawsuit. I immediately reached out to your California office and said we would respond to your request for information. During our conversation you stated that you are requesting Nutramax's September 10 letter be addressed.

For purposes of settlement only, we are providing the following information Nutramax requested in its September 10 letter. The letter requested the identification of the manufacturer and the ingredient suppliers for Joint Complete. The manufacturer is Vit Best. To the best of our knowledge, the ingredient supplier is Fine Living Pharmanaturals.

The letter also requested information regarding Body Wise's sales for Joint Complete. Body Wise began selling Joint Complete on Amazon on June 28, 2018. It has sold only eleven units with gross sales of \$556 through Amazon. Through channels other than Amazon, Body Wise had approximately \$100,000, in gross sales in the past year.

As I mentioned on our call, Body Wise is an extremely small company that employs under 10 people. It has been struggling to survive over the last 4 years and is continuing to downsize which prompted our move in August of this year, and which may explain why we did not receive your previous correspondence. We understand that litigating the validity of Nutramax's patent will be expensive for both Nutramax and Body Wise. Given the relatively small amount of sales of this product, Body Wise is willing to stop selling Joint Complete on Amazon in exchange for a release of all claims and a dismissal of the lawsuit. Please advise if this proposal is agreeable to Nutramax.

During our call, you stated that as long as we are discussing settlement that Nutramax was willing to extend the deadline by which Body Wise must answer Nutramax's complaint by 21 days. Please confirm in writing that Body Wise will have 21 days from the date the parties reach an impasse in settlement negotiations to answer the complaint and that Nutramax will not take any action to seek a default judgment in the interim. The 21 day deadline will be triggered when Nutramax notifies me in writing that the parties have reached an impasse. We hope that with good faith negotiations, we can resolve this before both sides incur substantial legal fees.

-Marty

EXHIBIT 5

Giardina, Julie

From: Cox, John
Sent: Wednesday, December 12, 2018 12:52 PM
To: 'Marty Pajor'
Subject: RE:

Hello Marty,

Yes -- I am around from 230-530 ET today. You can reach me at 404 888 7432.

Best regards,

John

John W. Cox, Ph.D.

Partner
Womble Bond Dickinson (US) LLP

d: 404-888-7432
m: 404-680-4949
e: John.Cox@wbd-us.com

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Atlanta, GA 30363-1017



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From: Marty Pajor [<mailto:MPajor@LiamVentures.com>]
Sent: Wednesday, December 12, 2018 11:54 AM
To: Cox, John
Subject:

John, are you available for a call today to discuss Body Wise.

EXHIBIT 6

Giardina, Julie

From: Cox, John
Sent: Thursday, December 13, 2018 2:00 PM
To: 'Marty Pajor'
Subject: Nutramax v Body Wise -- extension of time
Attachments: Nutramax v Body Wise - PROPOSED (121318) Stipulation to Extend Time to Respond to Complaint.docx

Hello Marty,

Thanks for your call yesterday. As discussed, please find attached a proposed stipulation to extend the deadline for Body Wise to respond to the Complaint. Please fill in the yellow highlighted portions and confirm that we may apply your signature. We can then file this on behalf of both parties to get the extension.

As we discussed, we are hopeful that we can resolve this matter prior to the new deadline, January 20.

Best regards,

John

John W. Cox, Ph.D.

Partner
Womble Bond Dickinson (US) LLP

d: 404-888-7432
m: 404-680-4949
e: John.Cox@wbd-us.com

Atlantic Station
271 17th Street, NW
Suite 2400
Atlanta, GA 30363-1017



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Brenton R. Babcock (SBN 162,120)
Brent.Babcock@wbd-us.com
WOMBLE BOND DICKINSON (US) LLP
3200 Park Center Drive, Suite 700
Costa Mesa, CA 92626
Telephone: (714) 557-3800
Facsimile: (714) 557-3347

John W. Cox, Ph.D. (*pro hac vice*)
John.Cox@wbd-us.com
WOMBLE BOND DICKINSON (US) LLP
271 17th Street, NW, Suite 2400
Atlanta, GA 30363
Telephone: (404) 888-7000
Facsimile: (404) 879-2699

Attorneys for Plaintiffs
NUTRAMAX LABORATORIES, INC. and
NUTRAMAX LABORATORIES CONSUMER CARE, INC.

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
SOUTHERN DIVISION**

NUTRAMAX LABORATORIES,
INC. and
NUTRAMAX LABORATORIES
CONSUMER CARE, INC.,

Plaintiffs,

v.

BODY WISE INTERNATIONAL,
INC.,

Defendant.

Case No. 8:18-cv-02076

**STIPULATION TO EXTEND
TIME TO RESPOND TO INITIAL
COMPLAINT BY NOT MORE
THAN 30 DAYS (L.R. 8-3)**

Complaint Served: November 29,
2018

Current Response Date: December 20,
2018

New Response Date: January 10, 2019

1 The undersigned counsel of record for Plaintiffs Nutramax Laboratories,
2 Inc. and Nutramax Laboratories Consumer Care, Inc. (collectively, “Nutramax”
3 or “Plaintiff”) and Chief Financial Officer for Defendant Body Wise
4 International, Inc. (“Defendant”), pursuant to Local Rule 8-3, hereby stipulate
5 to extend the time for Defendant to respond to the Complaint filed by Nutramax
6 on November 20, 2018 (Dkt. No. 1). The Complaint was served on November
7 29, 2018 (*see* Dkt. No. 14) and Defendant’s response is currently due on
8 December 20, 2018. Defendant has requested a 21-day extension, and counsel
9 for Nutramax has no objection to the request. Therefore, the Parties hereby
10 stipulate that Defendant’s response to the Complaint is due on or before January
11 10, 2019.

1 Dated: December [REDACTED], 2018

Respectfully submitted,

2 By: /s/

Martin Pajor
3 Chief Financial Officer
Body Wise Int'l, Inc.
4 [REDACTED]
5 [REDACTED]
6 [REDACTED]

By: /s/ Brenton R. Babcock

Brenton R. Babcock
Brent.Babcock@wbd-us.com
WOMBLE BOND DICKINSON (US) LLP
3200 Park Center Drive, Suite 700
Costa Mesa, CA 92626
(714) 557-3800 (telephone)
(714) 557-3347 (facsimile)

7 John W. Cox, Ph.D. (*pro hac vice*)
John.Cox@wbd-us.com
WOMBLE BOND DICKINSON (US) LLP
8 271 17th Street, NW, Suite 2400
Atlanta, GA 30363
9 (404) 888-7000 (telephone)
(404) 879-2699 (facsimile)

10 *Attorneys for Plaintiffs*
11 Nutramax Laboratories, Inc. and
12 Nutramax Laboratories Consumer
Care, Inc.

13
14 Pursuant to Local Rule 5-4.3.4(a)(2)(i), the undersigned attests that all
15 signatories listed above concur in the content of this filing and have authorized
16 the filing.

17 By: /s/ Brenton R. Babcock
18 Brenton R. Babcock
19
20
21
22

CERTIFICATE OF SERVICE

On this date, December , 2018, the undersigned will serve upon
Defendant via electronic mail the filed copy of:

**Stipulation of Extend Time of Respond to Initial Complaint By Not
More Than 30 Days (L.R. 8-3)**

By: /s/ Brenton R. Babcock
Brenton R. Babcock

Attorneys for Plaintiffs
Nutramax Laboratories, Inc. and
Nutramax Laboratories Consumer
Care, Inc.

EXHIBIT 7

Giardina, Julie

From: Cox, John
Sent: Thursday, December 20, 2018 9:29 AM
To: 'Marty Pajor'
Subject: RE: RE:

Hello Marty,

Further to my email below, please let me know if we may enter the extension and provide your contact details so we can add them to the document. The information sought by Mr. Jesic's correspondence should be easily provided to Nutramax and we expect that we can then amicably settle the case and dismiss the lawsuit.

Best Regards,

John

From: Cox, John
Sent: Tuesday, December 18, 2018 10:42 AM
To: 'Marty Pajor'
Subject: RE:

Hello Marty,

Thanks for your email and confirming that Body Wise has abandoned Joint Complete.

Further to our discussion and the correspondence (from Slaven Jesic, me, and Brent Babcock), Nutramax still requires the information requested in the letters from Mr. Jesic. I appreciate your representations regarding Body Wise's status as a company, including that an extension will not change its situation, and I appreciate how that impacts any settlement. That said, as Nutramax alleged in the Complaint, Body Wise has infringed on Nutramax's intellectual property.

While Nutramax requires the information requested in Mr. Jesic's letters to pursue an informed settlement and dismissal of the lawsuit, we would prefer not going through a default judgment proceeding in order to do so. With the extension, we are confident that we can reach an agreement and dismissal. Absent the extension and without a filing in response to the Complaint by Body Wise by Thursday, Nutramax would be forced to pursue the same information requested in Mr. Jesic's letters at additional cost. Therefore, I request again that Body Wise agree to the extension (that Nutramax prepared at its own expense) and provide the requested information.

Best regards,

John

John W. Cox, Ph.D.
Partner
Womble Bond Dickinson (US) LLP

d: 404-888-7432
m: 404-680-4949
e: John.Cox@wbd-us.com

Atlantic Station
271 17th Street, NW
Suite 2400

Atlanta, GA 30363-1017



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From: Marty Pajor [<mailto:MPajor@LiamVentures.com>]

Sent: Monday, December 17, 2018 5:22 PM

To: Cox, John

Subject: FW:

Dear Mr. Cox:

Thank you for offering to extend the time we have to respond to your client's Complaint served on November 29, 2018.

We believe filing the extension will not change our underlying situation. As stated in our communications both written and verbally, we are not in a financial condition to defend this Complaint. We cannot afford legal counsel to weigh the merits of the Complaint or satisfy any monetary awards if the Complaint is pursued. As you astutely commented during our phone call "you cannot get blood out of a turnip".

We have complied with the most important aspect of your Complaint – Effective December 13, 2018 we have ceased selling our Joint Complete on Amazon.

We have also ceased selling Joint Complete to all customers. We have abandoned Joint Complete.

Since this satisfies your demand we request your client's Complaint be withdrawn.

EXHIBIT 8

Giardina, Julie

From: Cox, John
Sent: Monday, January 28, 2019 2:13 PM
To: Giardina, Julie
Subject: FW: Nutramax Laboratories, Inc. v. Body Wise International, Inc., Case No. 8:18-cv-02076
Attachments: 2019.01.02 [018] Nutramax's Resp. to Order to Show Cause.pdf; Cox Dec - Ex 8 - Cox to Pajor email (010319) RE Nutramax Laboratories Inc. v. Body Wise International Inc. Case No. 818-cv-02076.msg

From: Cox, John
Sent: Thursday, January 3, 2019 8:01 AM
To: mpajor@liamventures.com
Subject: RE: Nutramax Laboratories, Inc. v. Body Wise International, Inc., Case No. 8:18-cv-02076

Marty,

Further to our correspondence below, please find Nutramax's response to the Court's Order to Show Cause, filed yesterday. As you can see, the Court entered the default of Body Wise in view of Nutramax's Application to the Clerk for Entry of Default against Defendant Body Wise (the document provided by the email below) and Nutramax is continuing to pursue relief, including the information requested in earlier correspondence.

Regards,

John

John W. Cox, Ph.D.
Partner
Womble Bond Dickinson (US) LLP

d: 404-888-7432
m: 404-680-4949
e: John.Cox@wbd-us.com

Atlantic Station
271 17th Street, NW
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Atlanta, GA 30363-1017



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From: Giardina, Julie
Sent: Monday, December 31, 2018 6:12 PM

To: mpajor@liamventures.com

Cc: Babcock, Brent; Cox, John

Subject: Nutramax Laboratories, Inc. v. Body Wise International, Inc., Case No. 8:18-cv-02076

Mr. Pajor,

Attached for service, please find: (1) Plaintiffs' Application for the Clerk to Enter Default Against Defendant Body Wise International, Inc.; and (2) Declaration of John W. Cox in Support of Plaintiffs' Application for the Clerk to Enter Default Against Defendant Body Wise International, Inc., which were filed today in the above referenced case.

Best regards,
Julie

Julie Giardina

Paralegal

Womble Bond Dickinson (US) LLP

d: 410-545-5802

m: 443-618-2616

e: Julie.Giardina@wbd-us.com

100 Light Street, 26th Floor
Baltimore, MD 21202



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EXHIBIT 9



Womble Bond Dickinson (US) LLP
3200 Park Center Drive, Suite 700
Costa Mesa, California 92626

Tel: (714)557-3800
Fax: (714)371-2641
www.womblebond dickinson.com

January 16, 2019
Matter Number 89641.0009.9
Bill Number 4199520
STATEMENT FOR SERVICES RENDERED

Nutramax Laboratories
946 Quality Drive
Lancaster, SC 29720

RE: Nutrimax Labs v. Body Wise

FOR PROFESSIONAL SERVICES RENDERED THROUGH 12/31/2018
DISBURSEMENTS THROUGH 12/31/2018 \$97.51

CURRENT TOTAL \$97.51

<div style="background-color: black; width: 100%; height: 10px; margin-bottom: 5px;"></div> <div style="background-color: black; width: 30%; height: 15px; margin: 0 auto;"></div> <div style="background-color: black; width: 15%; height: 15px; float: right;"></div>

If paying by check or online banking bill payment, please remit payment DUE ON RECEIPT to the following address:		If paying by wire, please remit payment DUE ON RECEIPT as follows:	
PO Box 601879 Charlotte, North Carolina 28260-1879 Please <i>do not</i> use the above address for trust funds or retainer payments. Please send all trust funds and retainer payments directly to One West Fourth Street, Winston-Salem, NC 27101.		Wells Fargo Bank, N.A. 1525 W.T. Harris Blvd. Charlotte, NC 28288 [REDACTED]	<u>For Credit To:</u> Womble Bond Dickinson (US) LLP One West Fourth Street Winston-Salem, NC 27101 [REDACTED]
		PLEASE include our bill # and client/matter# on EFT, or e-mail remittance advice to AccountsReceivable@wbd-us.com.	
[REDACTED]		[REDACTED]	
<u>Accounting questions regarding your invoices can be directed to (336)728–7040 or AccountsReceivable@wbd-us.com.</u>			

IF PAYING BY CHECK, PLEASE RETURN THIS PAGE WITH PAYMENT

THANK YOU FOR YOUR BUSINESS

Nutramax Laboratories, Inc.
Nutrimax Labs v. Body Wise

89641.0009.9/4199520

ITEMIZED SERVICES BILL

Date:	Description:	Attorney:	Hours:
12/18/2018	Consider issues related to default and correspond with B. Babcock regarding same; confer with M. Pajor from BodyWise regarding settlement and extension	Cox, John W.	0.70
12/20/2018	Consider issues related to default; correspond with S. Jesic and B. Babcock regarding same (No Charge)	Cox, John W.	0.00
12/27/2018	Attention to potential entry of default by clerk; review, forward, and comment on minute Order to Show Cause from the Court	Babcock, Brenton R.	0.50
12/27/2018	Confer and correspond with other team members regarding default and options related to same; confer with S. Jesic regarding same	Cox, John W.	0.40
12/28/2018	Attorney conference with John Cox regarding case strategy and minute Order to Show Cause from the Court (No Charge)	Babcock, Brenton R.	0.00
12/31/2018	Attention to application to court clerk for entry of default against defendant Body Wise; revise and finalize said application; communicate with team regarding same	Babcock, Brenton R.	1.20
12/31/2018	Prepare filings requesting entry of default; correspond with other team members regarding same	Cox, John W.	0.40
12/31/2018	Draft application for entry of default and declaration in support of same; communications with J. Cox regarding same; finalize, file, and serve application for entry of default and declaration in support of same; communications with J.	Giardina, Julie C.*	1.50

Nutramax Laboratories, Inc.
Nutrimax Labs v. Body Wise

89641.0009.9/4199520

Cox and B. Babcock regarding same

Total for Services:	<hr/>
	\$ 
	<hr/>

* If an asterisk appears above, it designates a Legal Assistant or other non-lawyer professional.

Nutramax Laboratories, Inc.
Nutrimax Labs v. Body Wise

89641.0009.9/4199520

DISBURSEMENTS AND OTHER CHARGES

Date:	Description:	Amount:
Nov 20, 2018	Express Delivery Charge Federal Express Corporation; 783891484680; Body Wise International, Inc., Sir or Madam, SANTA ANA, CA	\$ 26.63
Nov 20, 2018	Express Delivery Charge Federal Express Corporation; 783891383566; Body Wise International, Inc., Sir or Madam, SANTA ANA, CA	\$ 26.63
Dec 8, 2018	Filing Fee First Legal Network - E-filing of proof of service and courtesy copies to Judge	\$ 44.25
Total Disbursements:		<hr/> \$ 97.51 <hr/>

Any disbursement appearing on our statements as Business Meals and Entertainment is stated at cost. The Revenue Reconciliation Act of 1993 reduced the deductibility of these expenses to you from 80% to 50%. We maintain the supporting documentation for these costs and will make the documentation available to you upon request.

Nutramax Laboratories, Inc.
Nutrimax Labs v. Body Wise

89641.0009.9/4199520

TIMEKEEPER SUMMARY

Attorney:	Hours:	Amount:	Rate:
Babcock, Brenton R.	████	██████████	\$ 730.00
Cox, John W.	████	██████████	\$ 625.00
Giardina, Julie C.*	████	██████████	\$ 235.00
Totals:	████	██████████	

* If an asterisk appears above, it designates a Legal Assistant or other non-lawyer professional.

Use of Legal Support Service Providers

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EXHIBIT 10



Womble Bond Dickinson (US) LLP
3200 Park Center Drive, Suite 700
Costa Mesa, California 92626

Tel: (714)557-3800
Fax: (714)371-2641
www.womblebond dickinson.com

January 29, 2019
Matter Number 89641.0009.9
Bill Number 4201674
STATEMENT FOR SERVICES RENDERED

Nutramax Laboratories
946 Quality Drive
Lancaster, SC 29720

RE: Nutrimax Labs v. Body Wise

FOR PROFESSIONAL SERVICES RENDERED THROUGH 01/25/2019 [REDACTED]
DISBURSEMENTS THROUGH 01/25/2019 \$28.75

CURRENT TOTAL [REDACTED]

Our accounting records indicate the following invoices remain outstanding as of January 29, 2019.

[REDACTED] [REDACTED] 1

If paying by check or online banking bill payment, please remit payment DUE ON RECEIPT to the following address:		If paying by wire, please remit payment DUE ON RECEIPT as follows:	
PO Box 601879 Charlotte, North Carolina 28260-1879 Please <i>do not</i> use the above address for trust funds or retainer payments. Please send all trust funds and retainer payments directly to One West Fourth Street, Winston-Salem, NC 27101.		Wells Fargo Bank, N.A. 1525 W.T. Harris Blvd. Charlotte, NC 28288 [REDACTED]	<u>For Credit To:</u> Womble Bond Dickinson (US) LLP One West Fourth Street Winston-Salem, NC 27101 [REDACTED]
		PLEASE include our bill # and client/matter# on EFT, or e-mail remittance advice to AccountsReceivable@wbd-us.com.	
Accounting questions regarding your invoices can be directed to (336)728–7040 or AccountsReceivable@wbd-us.com .			

IF PAYING BY CHECK, PLEASE RETURN THIS PAGE WITH PAYMENT

THANK YOU FOR YOUR BUSINESS

ITEMIZED SERVICES BILL

Date:	Description:	Attorney:	Hours:
01/10/2019	Attention to case status and procedures for seeking a default judgment; attorney conference with John Cox regarding the same	Babcock, Brenton R.	0.30
01/10/2019	Consider requirements in CDCal for seeking relief via default judgment; confer and correspond with other team members regarding; review Court's entry of default; review correspondence from M. Pajor of BodyWise; review correspondence with S. Jesic regarding same	Cox, John W.	0.70
01/11/2019	Work on memorandum of points and authorities in support of motion for default judgment	Giardina, Julie C.*	6.40
01/14/2019	Work on drafting memorandum of points and authorities in support of motion for default judgment; communications with J. Cox regarding same; work on drafting notice of motion and motion for default judgment and proposed order	Giardina, Julie C.*	4.50
01/15/2019	Draft claim chart for '289 patent; communications with J. Cox regarding same	Giardina, Julie C.*	0.40
01/16/2019	Review filings related to default judgment and related documents; consider strategy and correspondence from S. Jesic related to same; review claim construction summary and patents, and prepare claim construction positions for motion for default judgment; confer with S. Jesic and correspond with B. Babcock and J. Giardina regarding same	Cox, John W.	3.30
01/17/2019	Review and revise motion for default judgment; confer and correspond with other team members regarding same; review draft declarations for same and pleadings and exhibits in support of same	Cox, John W.	3.50
01/17/2019	Work on declaration in support of motion for default judgment; communications with J. Cox regarding same	Giardina, Julie C.*	0.40
01/18/2019	Review and revise declarations in support of motion for	Cox, John W.	3.30

Nutramax Laboratories, Inc.
Nutrimax Labs v. Body Wise

89641.0009.9/4201674

default judgment; prepare claim construction and infringement analysis for same; review file history of asserted patent

01/22/2019	Review and revise Motion for Default Judgment (0.5); provide comments to John Cox regarding same (1.0)	Babcock, Brenton R.	1.50
01/22/2019	Revise motion for default judgment; review and revise declarations in support of same; revise claim construction and infringement analysis for same; prepare exhibits for same; correspond with other team members regarding same	Cox, John W.	4.00
01/22/2019	Work on cite checking claim construction chart in support of motion for default; communications with J. Cox regarding same	Giardina, Julie C.*	1.50
01/23/2019	Attention to damages issues for motion for default judgment and telephone conference with expert witness [REDACTED] regarding same	Babcock, Brenton R.	0.30
01/24/2019	Attention to motion for default judgment and attorney conference with John Cox regarding same	Babcock, Brenton R.	0.30
01/24/2019	Confer and correspond with S. Jesic regarding motion for judgment; review revisions to motion and related papers; correspond and confer with other team members regarding same	Cox, John W.	1.70
01/24/2019	Work on memo in support of motion for default judgment; communications with J. Cox regarding same	Giardina, Julie C.*	1.50
01/25/2019	Work on memo in support of motion for default judgment; communications with J. Cox regarding same; update pleadings and correspondence	Giardina, Julie C.*	1.20
		Total for Services:	<u> </u>

* If an asterisk appears above, it designates a Legal Assistant or other non-lawyer professional.

Nutramax Laboratories, Inc.
Nutrimax Labs v. Body Wise

89641.0009.9/4201674

DISBURSEMENTS AND OTHER CHARGES

Date:	Description:	Amount:
Jan 2, 2019	Copying/Printing First Legal Network - Courtesy copies for Judge Carter of response to order to show cause	\$ 28.75
Total Disbursements:		<hr/> \$ 28.75 <hr/>

Any disbursement appearing on our statements as Business Meals and Entertainment is stated at cost. The Revenue Reconciliation Act of 1993 reduced the deductibility of these expenses to you from 80% to 50%. We maintain the supporting documentation for these costs and will make the documentation available to you upon request.

Nutramax Laboratories, Inc.
Nutrimax Labs v. Body Wise

89641.0009.9/4201674

TIMEKEEPER SUMMARY

Attorney:	Hours:	Amount:	Rate:
Babcock, Brenton R.			\$ 730.00
Cox, John W.			\$ 625.00
Giardina, Julie C.*			\$ 290.00
Totals:			

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Use of Legal Support Service Providers

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